

REMARKS

This Preliminary Amendment accompanies a Request for Continued Examination filed concurrently herewith, and Applicant requests that the claim amendments set forth above be entered into the present application before the Examiner continues the examination of the present application.

This Preliminary Amendment amends independent claims 1, 23, 31, 35, and 38, all of which stood rejected within the final Office Action. New claims 41-73 have been added by amendment above.

Following the entry of this Preliminary Amendment, the patent claims that remain pending are claims 1, 3-5, 12-14, and 18-40, and new claims 41-73.

This Preliminary Amendment amends each of the independent claims 1, 23, 31, and 35 by reciting that transmission of service data to a user includes first determining the number of times an attempt has been made to obtain such service data in order to activate at least part of the functionality of the software application assigned to a particular unique identification code, and confirming that the number of such attempts is fewer than a predetermined threshold. Support for the addition of this step can be found in Applicant's specification at page 8, line 25, through page 9, line 1, and at page 9, line 17, through page 10, line 9.

Similarly, claim 38 has been amended above to recite a method of preventing piracy including the step of examining received user data to derive the unique identification code associated with such software application, ascertaining the number of times an attempt has been made to obtain such service data in order to activate at least part of the functionality of said software application assigned to such unique identification code; and determining whether the number of times such an attempt has been made is fewer than a predetermined threshold.

Within the Advisory Action mailed April 22, 2005, the Examiner indicated that the pending claims were not patentably distinguishable from U.S. Patent No. 6,725,260 to Philyaw. Applicant requests the Examiner to reconsider this rejection in view of the amendments made above to independent claims 1, 23, 31, 35, and 38. Philyaw does not discuss or suggest either tracking the number of times that a user attempts to obtain and/or activate software, nor does Philyaw discuss or

1 suggest determining whether the number of times that such attempts have been made is fewer than a
2 any threshold limit. This is not surprising, since prevention of software piracy was not one of the
3 goals of the Philyaw disclosure.

4 Accordingly, Philyaw can not anticipate or render obvious pending independent claims 1,
5 23, 31, 35, or 38, nor the claims dependent therefrom.

6 New claims 45, 50, 55 and 66 each require archiving of user identifying data, and
7 comparison of newly-received user identifying data with previously-archived user identifying data,
8 as part of the selective transmission of service data to the user's computer. Newly-received user
9 identifying data must not be inconsistent with previously-archived user identifying data stored in
10 association with the same unique identification code. The cited Philyaw patent does not compare
11 current user identifying data with previously-archived user identifying data, for a given unique
12 identification code, when determining whether or not to provide "service data" to the requester.

13 Accordingly, Philyaw does not disclose or suggest the invention recited by new claims 45, 50, 55
14 and 66, nor their associated dependent claims.

15 For the reasons set forth above, Applicant respectfully submits that the present application is
16 now in condition for allowance, which action is earnestly requested.

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18 Respectfully submitted,

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